

certification, and notify the WTC responder or certified-eligible survivor in writing of the WTC Program Administrator's decision and the reason for the decision.

(i) In the course of review, the WTC Program Administrator may seek a recommendation about certification from a physician panel with appropriate expertise for the condition.

(ii) [Reserved]

(2) If certification is denied, the WTC responder or certified-eligible survivor may appeal the WTC Program Administrator's decision to deny certification, as provided under § 88.15.

(c) *Treatment pending certification.* While certification is pending, authorization for treatment of a WTC-related health condition or a health condition medically associated with a WTC-related health condition shall be obtained from the WTC Program Administrator before treatment is provided, except for the provision of treatment for a medical emergency.

§ 88.14 Standard for determining medical necessity.

All treatment provided under the WTC Health Program will adhere to a standard which is reasonable and appropriate; based on scientific evidence, professional standards of care, expert opinion or any other relevant information; and which has been included in the medical treatment protocols developed by the Data Centers and approved by the WTC Program Administrator.

§ 88.15 Appeals regarding treatment.

(a) Individuals may appeal the following decisions made by the WTC Program Administrator: not to certify a health condition as a WTC-related condition; not to certify a health condition as medically associated with a WTC-related health condition; or not to authorize treatment due to a determination by the WTC Program Administrator about medical necessity for a certified WTC-related health condition.

(1) A WTC responder, screening-eligible survivor denied status as a certified-eligible survivor, certified-eligible survivor, or designated representative may appeal a determination by the WTC Program Administrator denying certification of the individual's health

condition for coverage under the WTC Health Program or a determination that treatment will not be authorized as medically necessary.

(2) Appeal shall be made in writing, describe the reason(s) why the individual believes the determination is incorrect, and be postmarked within 60 calendar days of the date of the WTC Program Administrator's letter notifying the individual of the WTC Program Administrator's adverse determination. No new documentation will be considered in the appeal process that was not available to the WTC Program Administrator at the time of his or her initial determination.

(b) *Review of appeal.* (1) The WTC Program Administrator will appoint a Federal official to conduct the appeal.

(2) The Federal official may convene one or more qualified experts, independent of the WTC Health Program, to review the WTC Program Administrator's initial determination. The expert reviewers shall base their review and recommendation on the documentation available to the WTC Program Administrator when the initial determination was made. The reviewers shall submit their findings to the Federal official.

(3) The Federal official shall review the expert reviewers' findings and make a final determination, which will be sent to the WTC Program Administrator and the individual who filed the appeal. No further requests for review of this final determination will be considered.

(c) At any time, the WTC Program Administrator may reopen a final determination (pursuant to paragraph (b)(2) of this section) and may affirm, vacate, or modify such final determination in any manner he or she deems appropriate.

§ 88.16 Reimbursement for medically necessary treatment, outpatient prescription pharmaceuticals, monitoring, initial health evaluations, and travel expenses.

(a) *Medically necessary treatment and outpatient prescription pharmaceuticals.*

(1) The costs of providing medically necessary treatment or services for a WTC-related health condition or a health condition medically associated with a WTC-related health condition

by a Clinical Center of Excellence or by a member of the nationwide provider network will be reimbursed according to the payment rates that apply to the provision of such treatment and services by the facility under the Federal Employees Compensation Act (5 U.S.C. 8101 *et seq.*, 20 CFR Part 20).

(i) The WTC Program Administrator will reimburse a Clinical Center of Excellence or a member of the nationwide provider network for treatment not covered under the Federal Employees Compensation Act pursuant to the applicable Medicare fee for service rate, as determined appropriate by the WTC Program Administrator.

(ii) [Reserved]

(2) Payment for costs of medically necessary outpatient prescription pharmaceuticals for a WTC-related health condition or health condition medically associated with a WTC-related health condition will be reimbursed by the WTC Program Administrator under a contract with one or more pharmaceutical providers.

(b) *Monitoring and initial health evaluations.* (1) Payment for the costs of providing monitoring and initial health evaluations to a WTC responder, screening-eligible survivor, or certified-eligible survivor by a Clinical Center of Excellence or a member of the nationwide provider network will be reimbursed according to the payment rates that would apply to the provision of such treatment and services under the Federal Employees Compensation Act (5 U.S.C. 8101 *et seq.*, 20 CFR Part 20).

(c) *Review of claims for reimbursement for medically necessary treatment.* (1) Each claim for reimbursement for treatment will be reviewed by the WTC Program Administrator.

(2) If the WTC Program Administrator determines that the treatment is not medically necessary, reimbursement will be withheld by the WTC Program Administrator.

(d) *Transportation and travel expenses.* The WTC Program Administrator may provide for necessary and reasonable transportation and expenses incident to the securing of medically necessary treatment through the nationwide provider network, involving travel of more than 250 miles.

§ 88.17 Addition of health conditions to the list of WTC-related health conditions.

(a) Any interested party may petition the WTC Program Administrator to add a condition to the list of WTC-related health conditions.

(1) Each petition shall state an intent to petition and be sent to the WTC Program Administrator. The petition shall include:

(i) Name and contact information of the interested party;

(ii) Name and description of the condition(s) to be added; and

(iii) Reasons for adding the condition(s), including the medical basis for the association between the September 11, 2001, terrorist attacks and the condition(s) to be added.

(2) Not later than 60 days after the receipt of a petition, the WTC Program Administrator shall:

(i) Request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee; or

(ii) Publish in the FEDERAL REGISTER a proposed rule to add such health condition; or

(iii) Publish in the FEDERAL REGISTER the WTC Program Administrator's determination not to publish a proposed rule and the basis for that determination; or

(iv) Publish in the FEDERAL REGISTER a determination that insufficient evidence exists to take action under paragraph (a)(2)(i) through (iii) of this section.

(3) The WTC Program Administrator may consider more than one petition simultaneously when the petitions propose the addition of the same health condition. Scientific/Technical Advisory Committee recommendations and FEDERAL REGISTER notices initiated by the WTC Program Administrator pursuant to paragraph (a)(2) of this section may respond to more than one petition.

(4) The WTC Program Administrator shall be required to consider a new petition for a health condition previously reviewed by the WTC Program Administrator and determined not to qualify for addition to the list of WTC-related health conditions only if the new petition presents a new medical basis (i.e.,